

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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XIAMIN ZENG,

Plaintiff, **STIPULATION AND ORDER
OF VOLUNTARY
DISMISSAL PURSUANT TO
FED. R. CIV. P. 41(a)(1)(A)(ii)**

-against-

THE CITY OF NEW YORK, DETECTIVE DANIELLE
FEBUS [RANK FY20000], INSPECTOR JOHN CHELL,
DETECTIVE GARY DENEZZO [RANK FY20000],
SERGEANT GEORGE TAVARES (#5354), POLICE
OFFICER IRWIN LUPERON (SHIELD NO #27763),
POLICE OFFICER ERLENE WILTSHIRE (SHIELD NO.
#24340), and POLICE OFFICER CHRISTOPHER ROBLEY
(#23263), in both their individual and professional capacities,

19 Civ. 3218 (JGK) (KHP)

Defendants.
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WHEREAS, plaintiff Xiamin Zeng commenced this action by filing a complaint on April 10, 2019, against John Chell, Gary DeNezzo, David Hansell, Irwin Luperon, and George Tavarez, and Diego Andrianzan; an amended complaint on July 9, 2020, against John Chell, Gary DeNezzo, Danielle Febus, Irwin Luperon, George Tavarez, Erlene Wiltshire, and the City of New York; and a second amended complaint on June 7, 2021, against John Chell, Gary DeNezzo, Danielle Febus, Irwin Luperon, Christopher Robley, George Tavarez, Erlene Wiltshire, and the City of New York, alleging violations of her federal and state civil rights;

WHEREAS, on March 1, 2022, the Court granted in part defendants' motion pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and dismissed all claims against Gary DeNezzo, Irwin Luperon, Christopher Robley, and George Tavarez;

WHEREAS, defendant Erlene Wiltshire has denied any and all liability arising out of plaintiffs' allegations;

WHEREAS, the parties now desire to resolve certain issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. Plaintiff Xiamin Zeng dismisses with prejudice, and without costs or attorney's fees to any party, any and all claims against Erlene Wiltshire.

2. Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, any and all of the claims arising out of the facts and circumstances that are the subject of this action that were or could have been asserted on behalf of plaintiff Xiamin Zeng against Erlene Wiltshire are hereby dismissed and discontinued with prejudice, and without costs or attorney's fees to any party.

3. This Stipulation and Order contains all the terms and conditions agreed upon by counsel for defendant Erlene Wiltshire and counsel for plaintiff Xiamin Zeng, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

4. Nothing contained herein shall be deemed to be an admission by defendant Erlene Wiltshire that she has in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules, or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations, or bylaws of any department or subdivision of the City of New York.

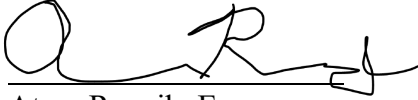
5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. This Stipulation shall be binding upon the parties immediately upon signature and shall be submitted to the Court for entry as an Order.

Dated: New York, New York
March 10, 2023

SIM & DEPAOLA, LLP
Attorney for Plaintiff
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Bayside, New York 11361

HON. SYLVIA O. HINDS-RADIX
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New York
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Wiltshire, and City*
100 Church Street
New York, New York 10007

By: 
Ataur Raquib, Esq.

By: 
Jeffrey F. Frank, Esq.

SO ORDERED: _____
HONORABLE JOHN G. KOELTL
UNITED STATES DISTRICT JUDGE

DATE: _____